Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Local Exchange Carriers' Rates	)	
Terms and Conditions for	)	CC Docket No. 94-97
Expanded Interconnection Through	)	Phase I
Virtual Collocation for Special	)	
Access and Switched Transport	)	

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OPPOSITION TO DIRECT CASES

Teleport Communications Group Inc. ("TCG") hereby comments on the Direct Cases filed on March 21 by Bell Atlantic, Southwestern Bell, Ameritech, BellSouth, GTE, and US West.

Southwestern Bell continues to classify virtually all of its cost support information as confidential.[1] This makes it impossible for parties to comment in any detail on their virtual collocation tariffs.[2] Given that Southwestern

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1. *See, e.g.*, Southwestern Bell Direct Case at Appendix 2, p. 1.

2. For that reason, the Commission can attach no significance whatsoever to the alleged comparison provided by Southwestern Bell at page 6 of its Direct Case. Absent real cost support to analyze, it is not possible to conclude that Southwestern Bell's comparisons have any validity. For example, Southwestern Bell is comparing a collocation arrangement, which only has electronics on one end, with a retail DS3 service that has electronics on both ends and fiber and outside plant in the middle. Moreover, the costs of fiber optic equipment vary significantly with the size and capability of the equipment, and absent considerable

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Bell's virtual collocation rates are the highest of any RBOC, the absence of cost support is particularly troubling. Moreover, Ameritech has also filed significant amounts of its cost support information under confidential cover, similarly limiting the ability of parties to comment on its filing.[3]

A common thread in several of the Direct Cases is an objection to the Commission's use of an "overhead analysis" in directing that the affected LECs reduce their virtual collocation rates.[4] The basic argument is that the Commission should not have limited the amount of overhead loading that could be applied to virtual collocation elements to the amount of loading that they applied for their favorite competing "retail" DS1 and DS3 services. The Commission's decision to include such a limitation was, however, soundly based. Indeed, Ameritech's Direct Case on several occasions points to the precise reason for the Commission's decision: the danger of an anticompetitive "price squeeze."[5] Such a squeeze would certainly result if LECs are permitted to charge more to collocators for comparable services or facilities than are

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additional information it is simply not possible to conclude that Southwestern Bell is comparing anything "comparable."

3. *See* Ameritech Direct Case at Attachments 1 and 2.

4. *See, e.g.*, Ameritech Direct Case at 6-7; Southwester Bell Direct Case at 2-5; and BellSouth Direct Case at 2-7

5. Ameritech Direct Case at 1, 5, 7.

charged to their retail customers.[6] The Commission's directions on overhead loadings serve to limit (although certainly not eliminate) the ability of LECs to engage in such anticompetitive conduct, and thus are reasonable, cost based, and in the public interest.

Moreover, it is important to recognize that the Comission's previous actions in this proceeding have not yet even touched the absolute level of the LEC's unit costs for virtual collocation elements, despite the fact that many of those elements appear to be priced far higher than their fair costs. Instead, the Commission's analysis was limited to examining the loadings that were applied after those unit costs were developed. If anything, therefore, the Commission's adjustments are more likely to have been conservative rather than overstated.

Other LECs argue that the Commission should not have considered their retail DS1 and DS3 Channel Termination elements as "comparable" to virtual collocation offerings. One LEC goes so far as to argue that there are no comparable

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6. Ameritech argues that there can be no price squeeze, even if it charges much higher overhead loadings to a collocator than it does to its own customers, so long as the total cost to the collocator for the Ameritech portion of the service was less than the market rate. Ameritech Direct Case at 7. In Ameritech's example, it prices a retail service at its direct cost of $100, but sells an essential input with a direct cost of $10 to its competitor for $15. In essence, Ameritech assumes that the collocator can somehow make up for the additional $5 cost somewhere else, and that competition is somehow "fair" if it can handicap its competitors with such a requirement.

retail services to virtual collocation,[7] another argues that only the cross connection is comparable,[8] while other LECs agree that DS1 and DS3 services are comparable.[9] Those LECs which oppose the Commission's use of these retail services benchmarks ignore the fundamental fact that the types of electronic equipment deployed to provide virtual collocation, and the types of connections used to link the virtual collocation equipment to other LEC network elements, are (or should be) identical to those used to provide these retail services. It is thus entirely appropriate for the Commission to use these retail services for evaluating virtual collocation rates.

While several LECs claim that the Commission should have used a different approach for its overhead loading analysis, the Commission's use of the "favorite" customer as its standard is fair and reasonable. The lowest margins are to be expected on the services most subject to competition, and thus the services where competitors are most likely to be reliant on collocation to complete their service offering to the customer. Use of "favorite" customer loadings thus represented a reasonable and fair method that best assured that the prices of these essential virtual collocation

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7. US West Direct Case at 4.

8. BellSouth Direct Case at 3.

9. See Bell Atlantic Direct Case at 6, Ameritech Direct Case at 4; and GTE Direct Case at 2.

elements would be provided in the manner most likely to avoid unfair "price squeezes" in the portion of the market where collocation is most likely to be used. Given that LECs have been given considerable pricing flexibility as a result of the Commission's zone density pricing decisions, use of "averaged" loadings would have left competitors facing excessive costs in the markets where competition is most likely. Accordingly, there is nothing in the Direct Cases which justifies or requires any change in the Commission's overhead loading adjustments.

This Direct Case investigation marks another phase in the Commission's long effort to develop lawful collocation tariffs. Important issues regarding the reasonableness of essential terms and conditions still remain from earlier stages in the Commission's investigation of collocation. Investigation of the excessive unit costs proposed by Southwestern Bell, and to a lesser extent by other LECs, has not even begun. While the Commission's continued attention to overhead loadings does address one limited area of concern with the collocation tariffs, many other aspects remain to be examined.

Respectfully submitted,

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